



MEETING

The regular meeting of the Hayward Planning Commission was called to order at 7:30 p.m. by Chairperson Halliday, followed by the Pledge of Allegiance.

ROLL CALL

Present: COMMISSIONERS Zermeno, Williams, Sacks, Caveglia, Bogue, Thnay
CHAIRPERSON Halliday
Absent: COMMISSIONER None

Staff Members Present: Anderly, Conneely, Emura, Gaber, Looney, Patenaude

General Public Present: Approximately 4

PUBLIC COMMENT

Commissioner Caveglia recognized the letter from Angela Stout, who sent Commissioners a copy of the letter she recently sent to Don Frascinella outlining the problem she sees with the Harder Road project.

AGENDA

1. **Administrative Use Permit PL-2002-0276 – James Holland for NSA Wireless (Applicant) Joseph & Rita Azzolino (Owner) PG&E (Lessee) – Referral by the Planning Director to allow an AT&T Wireless Facility on an Existing PG&E Tower – The Property is Located on the PG&E Right-Of-Way Between Portsmouth Avenue and Industrial Boulevard in the Single Family Residential (RS) District**
2. **Tentative Parcel Map 7850 – Joe Chen (Applicant/Owner) – Request to Subdivide a 9,212-Square-Foot Parcel into Two Single-Family Parcels; and Request for Variance for Reduced Lot Width – The Property is Located at 25033 Pleasant Way in an RSB4 (Single-Family Residential) District**

PUBLIC HEARINGS

1. **Administrative Use Permit PL-2002-0276 – James Holland for NSA Wireless (Applicant) Joseph & Rita Azzolino (Owner) PG&E (Lessee) – Referral by the Planning Director to allow an AT&T Wireless Facility on an Existing PG&E Tower – The Property is Located on the PG&E Right-Of-Way Between Portsmouth Avenue and Industrial Boulevard in the Single Family Residential (RS) District**

Associate Planner Emura described the property and the proposal as well as the problems with the present owner not cleaning up his area. The proposed facility would be located on the PG&E right-of-way, which is privately owned. Several residents in proximity to the project

requested that it not be allowed. They question further use of the site since, at present, the owner is using it for outdoor storage of construction material and debris. This is not an allowed use in the single-family residential district. As a result, a condition of approval was added to require clean up of the property prior to issuance of the permit.

Commissioners asked whether the City could just clean up the property and then charge the owner.

Assistant City Attorney Conneely told them that the City has to go to court and get an abatement order before taking any action.

Commissioner Sacks asked about Condition #8 which speaks to the removal of equipment, she commented that this might not be an effective condition if this same owner who is presently not cleaning the area, is expected to remove the equipment.

Assistant City Attorney Conneely explained that it is possible to make a condition with the clean up of the property or abatement.

The public hearing opened at 7:45 p.m.

James Holland, ATT, expressed his thanks to staff. As to the issue of cleaning up the site, he commented that any property that is decayed, etc. is an eyesore. He said they support the efforts to clean up the property but question as to whether it might not be unreasonable to require clean up before the approval. He said they accept the staff recommendation but would ask for a modification of the condition requiring clean up. He thought that their financial responsibility should be commensurate with their part of the property. He suggested that an estimate for the clean up of the site be prepared. He commented that they would be able to donate toward the site clean up. He added that there are other PG&E towers in the City and asked the members to modify condition 6.

Commissioner Bogue asked whether AT&T was paying for use of the tower. He was told that they were paying two leases, one to PG&E, and the other to the landowner.

Commissioner Caveglia commented that he thought it was unique that AT&T doesn't own the land.

Mr. Holland responded that in Union City, their antennas are on another piece of land not owned by PG&E.

Commissioner Williams said he did share their concerns but the Commission is looking down the road and protecting the neighbors by asking for it to be well kept. He suggested that AT&T take the lead.

Mr. Holland then pointed to condition 14, regarding maintaining the area. He said they could work something out with PG&E.

Commissioner Williams expressed concern about who initiates the clean-up effort.



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COMMISSION, CITY OF HAYWARD, Council
Chambers**

Thursday, June 27, 2002, 7:30 P.M.

777 "B" Street, Hayward, CA 94541

Commissioner Thnay asked Mr. Holland to understand that this is the only chance for the City to have some leverage with the owner. He noted that it is the only chance for Commissioners who represent the homeowners to help them. Mr. Holland said he did understand that.

Commissioner Sacks asked whether AT&T had discussed this with the landowner enough to know the landowner would clean it up. She was told that the owner has not been communicating with PG&E, or AT&T.

He then suggested that if the owner incurs financial responsibility from City, he might be inclined to clean it up.

The public hearing was closed at 7:56 p.m.

Commissioner Caveglia **moved**, seconded by Commissioner Bogue, to find that the project is categorically exempt from CEQA, and approve the Administrative Use Permit, subject to the findings and conditions.

Commissioner Caveglia then stated that it seems obvious to him. The City has tried to get this accomplished and has not been able to. This simply says, if it is not cleaned up, there will be no permit.

Commissioner Bogue said he agreed, , this property owner should not expand the use if he cannot maintain the property now.

Commissioner Zermeño said this is a win, win situation because everyone will get something from this.

Commissioner Williams added that according to the report, the owner stores construction materials on the site. He wondered how the clean up was actually going to be effected.

Associate Planner Emura said Community Preservation as well as the City Attorney's office would have to respond to complaints regarding use and maintenance of this property.

Commissioner Williams said he would support the motion based on the fact that the owner will not be allowed to store materials on site.

Commissioner Sacks said she was just appalled by the property, there was so much junk and weeds, it angered her. She added that she hoped it is a win, win situation since it really is not a good situation now.

Chairperson Halliday said she also agreed with the motion. As a City, they cannot allow the owner to benefit from having illegal storage on the site.

The **motion passed unanimously**.

2. Tentative Parcel Map 7850 – Joe Chen (Applicant/Owner) – Request to Subdivide a 9,212-Square-Foot Parcel into Two Single-Family Parcels; and Request for Variance for Reduced Lot Width – The Property is Located at 25033 Pleasant Way in an RSB4 (Single-Family Residential) District

Development Services Engineer Gaber described the neighborhood and the area as well as the proposal. He noted the variance is needed to allow a reduction in the lot widths. He noted that staff recommended approval.

Commissioner Zermeño asked whether the trees would be protected.

Planning Manager Anderly suggested that the members might like to add a condition to that effect. She noted that it would be appropriate.

Commissioner Sacks asked about the seeming contradiction of Condition #8 and last paragraph.

Development Services Engineer Gaber said the condition was to require replacement if it were somehow unavoidable that the trees were damaged or destroyed.

Commissioner Bogue asked about the 20-foot setback in the rear yard as indicated on the drawings. He added that 20-feet is where the redwood tree is. He was told that this is not the final plan for the homes. Since they will be custom homes, staff can make sure the footprint avoids the trees.

Chairperson Halliday confirmed that the second page of drawings was not definite.

The public hearing opened and closed at 8:09 p.m. with no comments from the public.

Commissioner Bogue **moved**, seconded by Commissioner Zermeño, to approve the staff recommendation, with an additional new condition 8. that all five of the redwood trees on the site would be protected. He then said he would change condition 8 to become a new 9, so that damaged or destroyed trees would be replaced.

Principal Planner Patenaude suggested he avoid numbering them at this point. There will still be a new building permit applied for in the project. He suggested a revision to the other condition, to change removal to destruction or damage.

Commissioner Bogue added that the landscape architect would decide the replacement trees and they would set a minimum requirement of 36-inch box redwood tree.

Principal Planner Patenaude noted that this condition was drafted by the Landscape Architect.

Commissioner Bogue then noted that at this time replacement might still be possible. However, in 10-years they will be even more valuable.

Planning Manager Anderly noted that if this were subdivided into two lots, perhaps prior to the building permit, staff would note the value of the trees and assure their preservation.



Chairperson Halliday asked whether the New Tree ordinance would apply.

Commissioner Caveglia said he would argue to just drop condition 8 since it allows an out as a condition. He said his goal would be to require them to preserve the trees.

Planning Manager Anderly commented that one of the things the commission might do is to require bonds to necessitate their preservation.

Commissioner Zermeno noted the under grounding planned for the project, he commented that it is a pleasure to see as well as saving trees.

Commissioner Williams said this is an effort to increase the housing in Hayward. Houses are more important than trees at this point. He noted that things could happen. He would hope that staff would do their best to protect the trees.

Commissioner Bogue then commented that he might drop condition 8 and asked if the trees are protected what would happen.

Planning Manager Anderly responded that they would be subject to the Tree Preservation Ordinance. Staff would then assess the value of the trees at that time.

Chairperson Halliday asked her to discuss the specifics since she said it was her impression that the Tree Preservation Ordinance would not apply to single-family properties. She said she thought that these properties would not come under the Tree Preservation Ordinance unless it is expanded to include single-family properties.

Planning Manager Anderly responded that right now it would preserve all the trees that are in the Conditions. She added that the condition included that all the trees would be saved, no trees removed and the houses would be designed to save the trees.

Commissioner Bogue stated that since Condition 8 gives the developer a way out of preserving the trees, he would like to have it removed from his motion.

Planning Manager Anderly stated that construction of the homes shouldn't cause destruction of the trees.

Chairperson Halliday commented that if the Tree Ordinance passes, there would be something to fall back on.

Commissioner Bogue asked when the period of "construction of the homes" cease.

Assistant City Conneely stated that if any of the trees are replaced or destroyed, the landscape architect would choose the replacement trees.

Commissioner Williams asked about accepting the City Attorney's language. He said the Commission is only here to do the best they can. The spirit of the Tree Ordinance is to preserve trees and still have housing.

Chairperson Halliday commented that staff has indicated that they should be able to build without destroying the trees.

Commissioner Sacks asked for further clarification of the motion.

Commissioner Bogue added that the placement of the houses must be such as to save the trees. It is important to protect the trees. There will be two houses on this site, but so much nicer with the trees. In respect to his motion Condition 8., will read, "If any of the redwood trees are damaged or destroyed within the subdivision, a tree of like kind shall be planted on-site for each tree removed at a location approved by the City Landscape Architect."

Chairperson Halliday said she particularly appreciated the condition about sidewalks and curbs.

The motion passed unanimously.

ADDITIONAL MATTERS

3. Oral Report on Planning and Zoning Matters

Planning Manager Anderly noted that another new date, July 25, has been set for the Blue Rock Country Club hearing.

4. Commissioners' Announcements, Referrals

Commissioner Thnay encouraged Commissioners to go to the newly created Bonfonte Park in Gilroy to view a variety of trees.

Commissioner Sacks noted that the walnut tree on the property on Huntwood and Tennyson is alive and well and thriving.

Chairperson Halliday read a commendation for Commissioner Williams who was leaving the Commission as of this date. Commissioner Williams then expressed his thanks to all the members, former members, and staff he has worked with during his tenure on the Planning Commission, for their help and encouragement throughout the past 10 years. He particularly thanked Planning Manager Anderly for the fine job she does for the City of Hayward, and for helping to educate him on many of the issues. He said it had been his pleasure to serve the City of Hayward, which he loves dearly. The Resolution was approved by acclamation.

MINUTES

- June 13, 2002 - Approved

MINUTES



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COMMISSION, CITY OF HAYWARD, Council
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ADJOURNMENT

The meeting was adjourned by Chairperson Halliday at 8:40 p.m.

APPROVED:

Francisco Zermeño, Secretary
Planning Commission

ATTEST:

Edith Looney
Commission Secretary